



June 19, 2015

**Appeal  
CC Docket No. 02-6**

Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

To Whom It May Concern:

We are filing an Appeal of an Administrator's Decision on behalf of the Glendale Elementary School District #40 for Funding Year 2011.

**Billed Entity:** Glendale Elementary School District #40  
**Billed Entity Number (BEN):** 142966  
**Form 471 Application Number:** 803971  
**FRN:** 2208461  
**Administrator's Decision on Appeal Date:** May 11, 2015

Appeal Request filed by:

Nicely Done Consulting, LLC  
Ernest N. Nicely, Partner  
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Glendale, Arizona 85310

**Reason for Denial of Funding Request:**

USAC determined that your SPIN change request did not comply with the FCC's operational SPIN change requirements. You requested a SPIN Change / Split for FRN 2208461 from SPIN 143008231, Sentinel Technologies, Inc. to SPIN 143004779, Logicalis Inc. The record shows that SPIN 143004779 did not receive the second highest point value in the original competitive bidding evaluation based on your response. You did not provide a legitimate explanation for selecting a SPIN that was not part of Glendale Elem School District 40 original competitive bidding process. Additionally, you did not provided proof that the district was required to purchase the services and products off the State Master Contact. Consequently, your appeal is denied.

In its Copan Order, the FCC determined that SPIN change requests would be granted when the applicant certifies that (1) the changes are allowed under state and local procurement rules and under the terms of the contract between the applicant and the service provider, and (2) the applicant has notified the original service provider of the intent to change. See Request for Review by Copan Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96- 45 and 97-21, 15 FCC Rcd 5498, FCC 00-100 (rel. Mar. 16, 2000). See also SPIN Change Guidance under Reference area at [www.usac.org/sl](http://www.usac.org/sl). Once a contract for products or services is signed by the applicant and service provider, the applicant may not change to a different service provider unless (1) there is a legitimate reason to change providers (e.g., breach of contract or the service provider is unable to perform); and (2) the newly selected service

provider received the next highest point value in the original bid evaluation, assuming there was more than one bidder. See In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan For Our Future, Sixth Report and Order, CC Docket No. 02-6; GN Docket No. 09-51, FCC 10-175 para. 91 (rel. September 28, 2010).

**Basis of Appeal:**

The reason given for denial is invalid. The Administrator's assertion that the applicant "did not provide a legitimate explanation for selecting a SPIN that was not part of Glendale Elem [sic] School District 40 original competitive bidding process" is incorrect. The Administrator was provided with the same explanation and documentation presented below. The Administrator's assertion that the applicant "did not provided [sic] proof that the district was required to purchase the services and products off the State Master Contract" is also incorrect. See Response to PIA Review Questions dated April 22, 2015 (attached).

The service provider that was in second position was in fact given the opportunity to provide the services requested; as evidenced by the attached letter dated March 17, 2014 to that service provider (K-12 SoundVision, SPIN 143019959). This letter documents that the service provider in second position was contacted, but could also not fulfill the Scope of Work for the same reason that the service provider in first position could not fulfill the Scope of Work (Sentinel Technologies, SPIN 143008231). The fact that the service provider in second position was given opportunity was also stated to the Administrator in the response to Review Questions dated December 8, 2014 (attached).

Only two bids were received so there is not a service provider in third position. The request for Operational SPIN Change to a third service provider that is compliant with state and local procurement rules and is able to fulfill the Scope of Work, is compliant with the FCC Sixth Report and Order paragraph 91, and is compliant with the FCC Copan Order paragraph C. 9. "A SPIN Change is allowed to a service provider that did not participate in the initial competitive bidding process given that all service providers that did participate have been given the opportunity to provide the requested service."

**Background:**

Arizona State Procurement Rules that were in effect at the time the qualifying Form 470 #835070000894111 was posted required that the applicant must a) conduct a formal RFP process to acquire services whose total cost exceeded \$50,000; or b) purchase the services using a State Master Contract or other approved Cooperative Purchasing Contract. The applicant issued a Request for Quote (not a formal RFP) for the services requested and therefore is compelled to purchase from a service provider's State Master Contract or Cooperative Purchasing Contract if the total cost exceeds \$50,000. The applicant received two responses to the RFQ, both exceeding the \$50,000 threshold. A portion of the RFQ was for structured cabling services. The cost for structured cabling services alone exceeded the \$50,000 threshold on both service provider responses.

Sentinel Technologies (SPIN 143008231) was originally awarded the contract based on an evaluation compliant with the FCC Fair and Open Bidding Rules. However, after the funding request was approved, it was discovered that the State Master Contract awarded to Sentinel Technologies did not include structured cabling services. Therefore, the award of this part of the contract was not in compliance with Arizona State Procurement Rules; and further, Sentinel Technologies could not legally provide the structured cabling services required in the Scope of Work.

K-12 SoundVision (SPIN 143019959) provided a response to the RFQ for the structured cabling only, and was in second position. This service provider was contacted by the applicant as evidenced by the letter dated March 17, 2014 and given the opportunity to provide the services required in the Scope of Work. Upon review, it was discovered that K-12 SoundVision also was not a holder of a State Master Contract or Cooperative Purchasing Contract for structured cabling services. Therefore, award of this part of the contract would also not be in compliance with Arizona State Procurement Rules; and K-12 SoundVision also could not legally provide the services required in the Scope of Work.

Since there were no other service providers that participated in the competitive bidding process, the applicant exercised the option afforded by the FCC Copan Order and requested an Operational SPIN Change from SPIN 143008231 (Sentinel Technologies) to SPIN 143004779 (Logicalis). Logicalis is able to provide structured cabling services under an awarded Cooperative Purchasing Contract compliant with Arizona State Procurement Rules.

**Corrective Measure:**

The denial should be reversed and the Operational SPIN Change from SPIN 143008231 to SPIN 143004779 should be approved as requested.

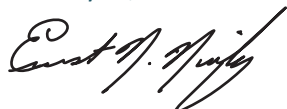
**Supporting Documentation:**

- ◆ Response to PIA Review Questions dated April 22, 2015
- ◆ Letter to K-12 SoundVision dated March 17, 2014

**Additional Supporting Statement:**

None.

Thank you,



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